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10/566,139

08/07/2006

Ross Clive Allen

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EXAMINER

BERRY, WILLIE WENDELL JR

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

08/19/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/566,139 | Applicant(s) ALLEN, ROSS CLIVE | |
| | Examiner WILLIE BERRY | Art Unit 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11, 12, 14-16, 18, 19, 25, 27-35, 38-41 and 43-57 is/are pending in the application.
- 4a) Of the above claim(s) 2-6, 11, 12, 25, 32, 33, 43-47, 49, 53, 55 and 57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 14, 27, 29-31, 34, 38-41, 48, 50-52, 54 and 56 is/are rejected.
- 7) ☒ Claim(s) 15, 16, 18, 19, 28 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>8/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 2-6, 11, 12, 25, 32, 33, 43-47, 49, 53, 55 and 57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/10/10.

The requirement is deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 14, 29, 30, 31, 50, 52, 54 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by patent no. 4,205,939 to Reyes.

Regarding claim 1, Reyes discloses a mill relining apparatus for handling articles within a mill, including: a mast (13) provided with top and bottom engagement members

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(foot of element [17]; 29 and 31) at its respective ends; and an article handling arrangement (not numbered, but shown in fig. 1) supported by the mast, wherein the mast is extendible in length so that it can be locked into a substantially upright position within the mill with the bottom engagement member resting on mill charge within the mill or a lower surface of the mill and the top engagement member engaging with an upper surface of the mill (not numbered, but shown in fig. 1 at element 17).

Regarding claim 14, Reyes discloses a mill relining apparatus according to claim 1, wherein the article handling arrangement includes a boom (33) which is configured to be pivotable substantially vertically and substantially horizontally relative to the mast.

Regarding claim 29, Reyes discloses a mill relining apparatus according to claim 1, wherein the article handling arrangement is any one of the following: a robot handling arm, grapppler or other auxiliary device (not numbered, but shown in fig. 1).

Regarding claim 30, Reyes discloses a mill relining apparatus according to claim 1, wherein the article handling arrangement extends from the mast at a fixed angle and the mast is arranged to be rotatable relative to the top and bottom engagement members so that the article handling arrangement can be moved (not numbered, but shown in fig. 1).

Regarding claim 31, Reyes discloses an unassembled mill relining apparatus, including: a mast (13 and 17) that is extendible in length so that it can be locked into a substantially upright position within a mill; a top engagement member (29 and 31) connectable or connected to the top end of the mast for engaging with an upper surface of the mill; a bottom engagement member (foot of element [17]) connectable or

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connected to the bottom end of the mast for resting on mill charge within the mill or a lower surface of the mill; and an article handling arrangement (not numbered, but shown in fig. 1) that is connectable to the mast so that it is supported by the mast.

Regarding claims 50 and 52, Reyes discloses a mill relining apparatus according to claim 1, wherein the top (29 and 31) and bottom (foot of element [17]) engagement members provided at an end of the mast are at least partially formed from a material which is resiliently deformable so that it can securely engage with an upper and lower surface of the mill (note: all materials have a degree of deformability).

Regarding claim 54, Reyes discloses a mill relining apparatus according to claim 1, wherein the mast has a base mast part (17) and an extension mast part (13), the extension mast part being movable relative to the base part so that the length of the mast can be adjusted.

Regarding claim 56, Reyes discloses an unassembled mill relining apparatus according to claim 31, wherein the mast has a base mast part (17) and an extension mast part (13) which can be coupled together to allow the extension mast part to be movable relative to the base mast part so that the length of the mast can be adjusted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27, 34, 38-41, 48 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reyes.

Regarding claims 27 and 38, Reyes discloses the claimed invention except for the hydraulic system used to extend the base and extension mast parts relative to one another.

However, the prior art elements (27 and 13) perform the extension function specified in the claim in substantially the same manner as the function is performed by the corresponding element described in the specification, and such structure are considered art recognized equivalent structures and would have functioned at least equally as well. It would have been obvious to modify the device in this way for the purpose of providing an alternative arrangement that would have functioned at least equally as well.

Regarding claims 34 and 48, Reyes discloses the claimed invention except for the boom being extendible in length.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the boom of Reyes extendible, since it has been held that constructing a formerly integral structure into various telescoping elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding claims 39-41, the recited method steps of handling articles when relining a mill are considered to be obvious to Reyes, since Reyes discloses all of the claimed structural limitations in the claims as discussed supra.

Regarding claim 51, Reyes discloses the claimed invention except for the tine on the bottom engagement member.

Reyes discloses tines on the top engagement member (31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Reyes with it's own teachings for the purpose of providing additional functionality to the bottom engagement member.

Allowable Subject Matter

Claims 15, 16, 18, 19, 28 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE BERRY whose telephone number is (571)272-6191. The examiner can normally be reached on Mon-Fri, 11:30-8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652

Wbj.